

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)

John H. Bradtke)

Phyllis F. Bradtke, JRWROS)

Claimants)

vs.)

Kennedy, Cabot & Company)

Respondent)

AWARD

NASD #90-01654

REPRESENTATION

Claimants were represented by John Bradtke.

Respondent was represented by George Kupper, Esq., or Kennedy, Cabot & Company, Beverly Hills, California.

SUMMARY OF ISSUES

Claimants alleged account errors arising from the sale of shares of Wisconsin Energy Corporation.

Respondent denied liability for Claimants' allegations, and asserted that the shares of Wisconsin Energy were mistakenly placed in Claimants' account and that Claimants were never the rightful owners of the shares and had no right to sell the shares. Respondent asserted a counterclaim for the debit balance which resulted when Respondent had to buy the shares to place them in the correct account.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages of \$10,791.90.

Respondent requested dismissal of all claims and an award on the counterclaim of \$11,326.12.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on June 11, 1990. On September 17, 1991, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on June 6, 1990, and by an authorized representative of Kennedy, Cabot on July 24, 1990.


The hearing was conducted in San Diego, California and lasted one (1) session. The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted as follows:

1. All claims brought by Claimants are dismissed.
2. With respect to the counterclaim, Claimants are liable for and shall pay to Kennedy, Cabot & Company the sum of \$4,213.79 (representing the price of \$10,791.90 received by Claimants for the Wisconsin Energy shares less offsets of \$6,578.11 already credited to the Claimants debit balance), plus interest at the rate of 10% per annum from the date of this award to date of payment in full.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400 filing fee previously deposited by the Claimants as an assessment of forum fees. The NASD will refund the \$800 fee deposited by Respondent.

OTHER ISSUES

None.

DATE SERVED: 10/10/91


H. Hadley Batchelder